

REMARKS

Claims 1-5 are pending. Reconsideration and allowance based on the comments below are respectfully requested.

Claims 1-5 stand rejected under 35 U.S.C. §102(b) in view of Kinugawa et al. (US 6,450,138) and claim 4 stands rejected under 35 U.S.C. §103(a) in view of Kinugawa. These rejections are respectfully traversed.

Claim 1 recites, *inter alia*, a second rotor that has a plurality of vanes a groove provided on the opposite side of the shoe on the housing side to accommodate one-end side of the energizing means; and a hole provided in the vane of the second rotor to accommodate the other-end side of the energizing means. Applicants respectfully submit that Kinugawa fails to teach this feature.

As recited in claim 1, it is clear that the “hole” is provided in the vane of the second rotor for accommodating a first end of the energizing means and a groove is provided in the shoe to accommodate the other end of the energizing means. Thus, to anticipate this teaching Kinugawa must teach a second rotor having a vane with such a hole therein and in the same device a shoe that has a groove (not a hole) which are provided to accommodate the energizing means.

In the Office Action, the Examiner states that the vane 23 of Kinugawa corresponds to Applicants claimed second rotor vane. Thus, if the Examiner is relying upon the vane 23 to teach the claimed second rotor vane, then the vanes must have holes in them to accommodate the energizing means as claimed by Applicants.

The Examiner states that the vanes 23 have grooves 36 to accommodate the energizing means. Applicants agree that element 36 of FIG. 11 in Kinugawa teaches a groove in the vane 23. The Examiner also states that a hole is provided in the second rotor vane by element 39 and specifically 39A and 39B.

Applicants argued in the last response that Kinugawa teaches a groove in the vanes and also that elements 39A and 39B are not part of the vanes but instead are an integrated part of the energizing means of Kinugawa. (See Applicant’s last Response dated April 17, 2009). This energizing means is positioned in both the shoe and the vane of Kinugawa. See FIG. 11 and its description and also the description at Col. 12, lines 52-67 in which it states that elements 38 and

39 are holding members for springs 40 and 41 and holding members are "inserted into the shoe groove 36 and the vane grove 37." Thus, it is apparent that Kinugawa teaches that the vane is and shoe both receive the elements 38 and 39 in the same manner.

In the advisory action dated May 5, 2009, the Examiner states that "the vane constitutes (23,39) since (39) is an integral par of (23)." Thus, the Examiner assertion is that the elements 38 and 39 which contain the springs and each includes holes is not a separate element from the vane and shoe, but instead an integral part of the vane and shoe. While the Examiner has not specifically stated that element 38 is an integral part of the shoe, element 38 is the same as element 39 and the manner in which it is attached to the shoe is the same as with element 39 and the vane. Thus, the Examiner's logic and reasoning pertaining to element 39 necessarily transfers to the element 38.

While Applicant's disagree with this reasoning, it doesn't make a difference because under both arguments Kinugawa does not teach the claimed features. The fact remains that either using Applicant's previous arguments or the Examiner's own arguments, Kinugawa fails to teach the claimed features. As stated above, Applicant's claim 1 requires a second rotor having a vane with a hole therein and in the same device a shoe that has a groove (not a hole) each of which accommodate the energizing means. Under Applicant's arguments Kinugawa fails to teach a vane with a hole. Under the Examiner's arguments Kinugawa fails to teach a shoe with a groove. Thus, the claimed device cannot be anticipated by Kinugawa.

Thus, Kinugawa fails to teach each and every feature of Applicants independent claim 1 as required. Further, claims 2-5 are likewise allowable for the additional features they recite as well as for their dependence upon claim 1.

Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

For at least the above reasons Applicants respectfully submit claims 1-5 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at

Application No. 10/575,724
Amendment dated May 15, 2009
After Final Office Action of December 17, 2008

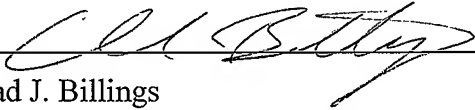
Docket No.: 1163-0551PUS1

the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: May 18, 2009

Respectfully submitted,

By _____
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